

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2014-007704

05/04/2016

HONORABLE KERSTIN LEMAIRE

CLERK OF THE COURT  
B. Randhawa  
Deputy

ALBERT CARRANZA

DAVID J CATANESE

v.

EDWARD D FITZHUGH, et al.

EDWARD D FITZHUGH

MATTHEW J KELLY

**TRIAL MINUTE ENTRY**  
**DAY 3**

East Court Building – Courtroom 711

Prior to the commencement of today's proceedings, Defendants' exhibits 18 – 20 are marked for identification.

9:35 a.m. Trial to a Jury continues from May 3, 2016. Plaintiff, Albert Carranza, is present and represented by counsel, David Catanese. Defendants, Walcott Law Firm PLLC and Thomas Walcott, who is present, are represented by counsel, Mathew Kelly and Kevin McCoy. The jury is a present.

A record of the proceedings is made digitally in lieu of a court reporter.

Albert Carranza, having previously been sworn, resumes the stand and testifies further.

Upon stipulation of the parties, Plaintiff's exhibit 5 is received in evidence.

Defendants' exhibits 19, 20 and 14 are received in evidence.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2014-007704

05/04/2016

10:39 a.m. Court stands at recess.

10:58 a.m. Court reconvenes with respective parties and counsel present. The jury is present.

A record of the proceedings is made digitally in lieu of a court reporter.

Albert Carranza resumes the stand and testifies further.

The Court receives written questions from the jury. Court and counsel discuss the questions, on the record, out of the hearing of the jury. The agreed-upon questions are asked and answered by the witness.

**FILED:** Juror Questions #5, #6, #7, #8, #9 and #10.

The witness is excused.

Christopher Zacher is sworn and testifies.

12:01 p.m. The jury leaves the Courtroom. The Court remains in session.

Trial matters are discussed.

12:04 p.m. Court stands at recess.

1:31 p.m. Court reconvenes with respective parties and counsel present. The jury is not present.

A record of the proceedings is made digitally in lieu of a court reporter.

The Court advises counsel that juror 4 is ill and unable to complete her jury service. Counsel agree to designate juror 4 as an alternate and excuse her from further service.

1:36 p.m. The jury is present.

The jury is advised that witness, Christopher Zacher, has been excused, subject to recall telephonically for juror questions.

Tamra Sue Facciola, who is present telephonically, is sworn and testifies.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2014-007704

05/04/2016

The witness is excused.

1:49 p.m. The jury leaves the courtroom. The Court remains in session.

Argument is presented on Defendants' motion for judgment as a matter of law as to the Plaintiff's claims of joint liability and punitive damages.

**IT IS ORDERED** deferring a ruling on the claim of joint several liability until after closing arguments. Further, the Court will not give a punitive damage instruction subject to counsel re-urging the issue.

2:01 p.m. The jury is present.

The Court receives written questions from the jury. Court and counsel discuss the questions, on the record, out of the hearing of the jury.

Christopher Zacher, having previously been sworn, continues testimony telephonically. The agreed-upon questions are asked and answered by the witness. The witness is excused.

**FILED:** Juror Questions #11, #12 & #13.

Plaintiff rests.

Defendants' case:

Thomas Walcott, having previously been sworn, resumes the stand and testifies further.

Defendant's exhibit 12 is received in evidence.

3:01 p.m. Court stands at recess.

3:18 p.m. Court reconvenes with respective parties and counsel present. The jury is present.

Thomas Walcott resumes the stand and testifies further.

The Court receives written questions from the jury. Court and counsel discuss the questions, on the record, out of the hearing of the jury. The relevant questions are asked and answered by the witness.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2014-007704

05/04/2016

**FILED:** Juror Questions #14, #15, #16, #17 and #18.

The witness is excused.

Defendants rest.

Albert Carranza, having previously been sworn, resumes the stand and testifies further.

The witness is excused.

4:16 p.m. The jury is reminded of the admonition and leaves the Courtroom. The Court remains in session.

The Court having reviewed the temporary restraining order, and for the reasons stated on the record,

**IT IS ORDERED** granting Defendant's motion for the request that the Court not find for joint several liability.

Defendant's counsel may submit any relevant case law on this issue and email it to the division's judicial assistant for the Court's consideration

Discussion is held regarding jury instructions which counsel are requested to submit by 8:00 a.m. on May 5, 2016.

With respect to Plaintiff's Motion for Judicial Notice and Admission of State Bar of Arizona Consent Agreements of Defendants Fitzhugh and Walcott, the Court deems it as moot as an agreement has been reached.

With respect to Plaintiff's Motion in Limine Regarding Comparative Fault of Plaintiff,

**IT IS ORDERED** granting the Motion, subject to re-urging by counsel.

4:29 p.m. Court stands at recess until May 5, 2016 at 9:00 a.m.